

United States Postal Service

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the right of the presiding officer to require the parties to furnish such further evidence or such briefs as the presiding officer may deem necessary. The request to waive oral hearing shall be mailed to the presiding officer not later than 10 days prior to the date set for the hearing.

§ 958.6 Default.

If a person who has not waived oral hearing fails, without notice or without adequate cause, satisfactory to the presiding officer, to appear at the hearing, the presiding officer shall issue an order dismissing the appeal. If no protest to such order of dismissal is received within 10 days from the date of issuance of the order, such order shall become final. Any protest to the order of dismissal received within 10 days from the date of its issuance shall be given such consideration as the presiding officer deems to be warranted by the facts and circumstances alleged in the protest. An order of dismissal issued under this section by an Administrative Law Judge may be appealed to the Judicial Officer within 10 days from the date of the order.

[36 FR 11578, June 16, 1971, as amended by 42 FR 30504, June 15, 1977]

§ 958.7 Presiding officers.

The presiding officer at any hearing shall be an Administrative Law Judge qualified in accordance with law, or the Judicial Officer (39 U.S.C. 204). The Chief Administrative Law Judge shall assign cases to Administrative Law Judges by rotation so far as practicable. The Judicial Officer may, for good cause shown, preside at the reception of evidence in proceedings where expedited hearings are requested by either party. When the Judicial Officer presides at the hearing, he shall, in his sole discretion, render a tentative or final decision after the conclusion of the hearing. Exceptions may be filed to a tentative decision in accordance with § 958.10.

[36 FR 11578, June 16, 1971, as amended at 38 FR 20263, July 30, 1973; 42 FR 30504, June 15, 1977]

§ 958.8 Proposed findings of fact and conclusions of law.

Unless otherwise ordered by the presiding officer, proposed findings of fact and conclusions of law and supporting arguments shall be submitted orally or in writing at the conclusion of the hearing.

§ 958.9 Initial decision.

Unless given orally at the conclusion of the hearing, the Administrative Law Judge shall render an initial decision as expeditiously as practicable following the conclusion of the hearing, and the receipt of the proposed findings, if any. The initial decision shall become the final agency decision if a timely appeal is not taken.

§ 958.10 Appeal.

Either party may file exceptions in a brief on appeal to the Judicial Officer within 5 days after receipt of the initial or tentative decision unless additional time is granted. A reply brief may be filed within 5 days after the receipt of the appeal brief by the opposing party.

§ 958.11 Final agency decision.

The Judicial Officer shall render a final agency decision or he shall refer the matter to the Postmaster General or the Deputy Postmaster General for such final decision. The decision shall be served upon the parties and upon the postmaster at the office where the box is located.

§ 958.12 Compromise and informal disposition.

Nothing in these rules precludes the compromise, settlement, and informal disposition of proceedings initiated under these rules at any time prior to the issuance of the final agency decision.

§ 958.13 Petition to revoke, amend, or modify.

A party against whom an order has been issued may file a petition for the revocation, amendment or modification thereof. The Recorder shall transmit a copy of the petition to the General Counsel, who may file a written reply. A copy of the reply shall be sent to the petitioner by the Recorder.

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Thereafter an order granting or denying such application will be issued by the Judicial Officer.

[36 FR 11578, June 16, 1971, as amended at 63 FR 66052, Dec. 1, 1998]

§ 958.14 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

[42 FR 5358, Jan. 28, 1977]

PART 959—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE PRIVATE EXPRESS STATUTES

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AUTHORITY: 39 U.S.C. 204, 401; 39 CFR 224.1(c)(6)(ii)(D).

SOURCE: 39 FR 33213, Sept. 16, 1974, unless otherwise noted.

§ 959.1 Authority for rules.

These rules are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General.

39 CFR Ch. I (7–1–02 Edition)

§ 959.2 Scope of rules.

These rules apply to all Postal Service proceedings in which part 310 of this title authorizes appeals to the Judicial Officer from demands for postage for matter carried in violation of the Private Express Statutes, and in proceedings to revoke, as to any person, the suspension of provisions of the Private Express Statutes in accordance with part 320 of this title.

§ 959.3 Office, business hours.

The offices of the officials mentioned in these rules are located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078 and are open Monday through Friday from 8:15 a.m. to 4:45 p.m.

[63 FR 66052, Dec. 1, 1998]

§ 959.4 Demands for payment of postage.

Final demands for payment of postage will be accompanied by a copy of these rules and will:

- (a) State that the demand is final unless appealed under these rules within 15 days after receipt of the demand;
- (b) Describe the transaction on which the demand is based and the provisions of law or regulation alleged to have been violated; and
- (c) State the manner in which the amount of the demand is computed.

§ 959.5 Appeals from demands.

(a) A party upon whom a demand for postage has been made may appeal from the demand by filing a petition, in triplicate, with the Recorder, Judicial Officer Department, within 15 days after receipt of the demand.

(b) The petition shall:

- (1) Be signed personally by an individual petitioner, by one of the partners of a partnership, or by an officer of a corporation or association;
- (2) State the reasons why the person filing the petition (designated the “Petitioner” in these rules) believes the demand is not justified;
- (3) Admit or deny each fact alleged in the demand and allege any facts upon which the Petitioner relies to show compliance with applicable laws and regulations; and,